

AMENDED IN ASSEMBLY JUNE 29, 2016

AMENDED IN ASSEMBLY JUNE 2, 2016

AMENDED IN SENATE APRIL 4, 2016

**SENATE BILL**

**No. 936**

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**Introduced by Senator Hertzberg**

**(Coauthors: Senators Anderson, Cannella, Huff, and Wieckowski)**

(Coauthors: Assembly Members *Brown*, Dodd, Cristina Garcia,  
*Eduardo Garcia*, Hadley, Irwin, Kim, and Rodriguez)

February 2, 2016

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An act to amend *Section 63089.1 of, and to amend* and repeal Sections 63089.5, 63089.60, 63089.61, and 63089.62 ~~of of~~, the Government Code, relating to business.

LEGISLATIVE COUNSEL'S DIGEST

SB 936, as amended, Hertzberg. California Small Business Expansion Fund: corporate guarantees.

Existing law, the Small Business Financial Assistance Act of 2013, establishes the California Small Business Expansion Fund, a continuously appropriated fund that includes General Fund moneys. The act requires guarantees made by small business financial development corporations to be backed by funds on deposit in the corporation's trust fund account or by receivables due from funds loaned from the corporation's trust fund account to another fund in state government, as specified, and requires these loan guarantees to be secured by a reserve of at least 20%, until January 1, 2018, and 25% thereafter, as specified.

This bill would reduce the required reserve to 10% indefinitely and would make conforming changes with respect to related statements of legislative intent.

Existing law prohibits the amount of guarantee liability outstanding at any one time from exceeding 5 times the amount of funds on deposit in the expansion fund plus any receivables due from funds loaned from the expansion fund to another fund in state ~~government as~~, *government, as* specified, until January 1, 2018, and 4 times thereafter.

This bill would increase that maximum amount to 10 times the amount of funds on deposit in the expansion fund plus any receivables due from funds loaned from the expansion fund to another fund in state ~~government as~~, *government, as* specified, would apply that increased amount indefinitely, and would make conforming changes.

*Existing law requires the program manager under the guidance of the executive director of the California Infrastructure and Economic Development Bank, to, among other things, authorize the distribution, transfer, and withholding of moneys in the expansion fund and trust funds.*

*This bill would also require the program manager to leverage moneys in the expansion fund and trust funds.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 63089.1 of the Government Code is
- 2     amended to read:
- 3     63089.1. (a) The program manager acting under the guidance
- 4     of the executive director shall do all of the following:
- 5         (1) Administer this chapter.
- 6         (2) Enter into a contract between the bank and each corporation
- 7     for services to be provided by the corporations for one or more
- 8     programs or financial products under this chapter and Chapter 1
- 9     (commencing with Section 14000) of Part 5 of Division 3 of Title
- 10    1 of the Corporations Code.
- 11         (3) In accordance with available resources, allow the use of
- 12     branch offices for the purposes of making these programs under
- 13     this chapter accessible to all areas of the state.
- 14         (4) Require each corporation to submit an annual written plan
- 15     of operation.

1 (5) Authorize the distribution, transfer, *leverage*, and  
2 withholding of moneys in the expansion fund and trust funds.

3 (6) Authorize the investment of expansion and trust fund  
4 moneys.

5 (7) Oversee the operations of one or more programs authorized  
6 pursuant to this chapter and by Section 8684.2.

7 (8) Act as liaison between corporations, other state and federal  
8 agencies, lenders, and the Legislature.

9 (9) Act as secretary to the California Small Business Board, and  
10 attend meetings of the California Small Business Board and the  
11 bank board.

12 (b) The program manager may attend and participate at  
13 corporation meetings. The program manager or his or her designee  
14 shall be an ex officio, nonvoting representative on the board of  
15 directors and loan committees of each corporation. The program  
16 manager shall confer with the board of directors of each corporation  
17 as appropriate and necessary to carry out his or her duties, but in  
18 no case shall the program manager confer less than once each fiscal  
19 year.

20 (c) In accordance with available resources, assist corporations  
21 in applying for public and private funding opportunities, and in  
22 obtaining program support from the business community.

23 ~~SECTION 1.~~

24 *SEC. 2.* Section 63089.5 of the Government Code, as added  
25 by Section 4 of Chapter 537 of the Statutes of 2013, is amended  
26 to read:

27 63089.5. (a) There is hereby continued in existence in the State  
28 Treasury the California Small Business Expansion Fund. All or a  
29 portion of the funds in the expansion fund may be paid out, with  
30 the approval of the Department of Finance, to a financial institution  
31 or financial company that will establish a trust fund and act as  
32 trustee of the funds.

33 (b) The expansion fund and the trust fund shall be used for the  
34 following purposes:

35 (1) To pay defaulted loan guarantee or surety bond losses, or  
36 other financial product defaults or losses.

37 (2) To fund direct loans and other debt instruments.

38 (3) To pay administrative costs of corporations.

39 (4) To pay state support and administrative costs.

1 (5) To pay those costs necessary to protect a real property  
2 interest in a financial product default.

3 (c) The expansion fund and trust fund are created solely for the  
4 purpose of receiving state, federal, or local government moneys,  
5 and other public or private moneys to make loans, guarantees, and  
6 other financial products that the California Small Business Finance  
7 Center or a financial development corporation is authorized to  
8 provide. The program manager shall provide written notice to the  
9 Joint Legislative Budget Committee and to the Chief Clerk of the  
10 Assembly and the Secretary of the Senate who shall provide a copy  
11 of the notice to the relevant policy committees within 10 days of  
12 any nonstate funds being deposited in the expansion fund. The  
13 notice shall include the source, purpose, timeliness, and other  
14 relevant information as determined by the bank board.

15 (d) (1) One or more accounts in the expansion fund and the  
16 trust fund may be created by the program manager for corporations  
17 participating in one or more programs authorized under this chapter  
18 and Section 8684.2. Each account is a legally separate account,  
19 and shall not be used to satisfy loan guarantees or other financial  
20 product obligations of another corporation except when the  
21 expansion fund or trust fund is shared by multiple corporations.

22 (2) The program manager may create one or more holding  
23 accounts in the expansion fund or the trust fund, or in both, to  
24 accommodate the temporary or permanent transfers of funds  
25 pursuant to Section 63089.3.

26 (e) The amount of guarantee liability outstanding at any one  
27 time shall not exceed 10 times the amount of funds on deposit in  
28 the expansion fund plus any receivables due from funds loaned  
29 from the expansion fund to another fund in state government as  
30 directed by the Department of Finance pursuant to a statute enacted  
31 by the Legislature, including each of the trust fund accounts within  
32 the trust fund.

33 ~~SEC. 2.~~

34 *SEC. 3.* Section 63089.5 of the Government Code, as amended  
35 by Section 8 of Chapter 132 of the Statutes of 2014, is repealed.

36 ~~SEC. 3.~~

37 *SEC. 4.* Section 63089.60 of the Government Code, as added  
38 by Section 4 of Chapter 537 of the Statutes of 2013, is amended  
39 to read:

1     63089.60. (a) The program manager shall recommend whether  
2     the expansion fund and trust fund accounts are to be leveraged,  
3     and if so, by how much. Upon the request of the corporation, the  
4     program manager's decision may be repealed or modified by the  
5     executive director or the bank board.

6     (b) The amount of guarantee liability outstanding at any one  
7     time shall not exceed 10 times the amount of funds on deposit in  
8     the expansion fund plus any receivables due from funds loaned  
9     from the expansion fund to another fund in state government as  
10    directed by the Department of Finance pursuant to a statute enacted  
11    by the Legislature, including each of the trust fund accounts within  
12    the trust fund.

13    ~~SEC. 4.~~

14    *SEC. 5.* Section 63089.60 of the Government Code, as added  
15    by Section 4 of Chapter 537 of the Statutes of 2013, is repealed.

16    ~~SEC. 5.~~

17    *SEC. 6.* Section 63089.61 of the Government Code, as added  
18    by Section 4 of Chapter 537 of the Statutes of 2013, is amended  
19    to read:

20    63089.61. (a) The corporate guarantee shall be backed by  
21    funds on deposit in the corporation's trust fund account, or by  
22    receivables due from funds loaned from the corporation's trust  
23    fund account to another fund in state government, as directed by  
24    the Department of Finance pursuant to a statute enacted by the  
25    Legislature.

26    (b) Loan guarantees shall be secured by a reserve of at least 10  
27    percent to be determined by the program manager unless a higher  
28    leverage ratio for an individual corporation has been approved  
29    pursuant to subdivision (b) of Section 63089.56.

30    (c) The expansion fund and trust fund accounts shall be used to  
31    guarantee obligations and other financial product obligations, to  
32    pay the administrative costs of the corporations, and for other uses  
33    pursuant to this chapter and Section 8684.2.

34    ~~SEC. 6.~~

35    *SEC. 7.* Section 63089.61 of the Government Code, as added  
36    by Section 4 of Chapter 537 of the Statutes of 2013, is repealed.

37    ~~SEC. 7.~~

38    *SEC. 8.* Section 63089.62 of the Government Code, as added  
39    by Section 4 of Chapter 537 of the Statutes of 2013, is amended  
40    to read:

1     63089.62. (a) It is the intent of the Legislature that the  
2 corporations make maximum use of their statutory authority to  
3 guarantee loans and surety bonds, and administer other financial  
4 products, including the authority to secure loans with a minimum  
5 loan loss reserve of only 10 percent, unless the program manager  
6 authorizes a higher leverage ratio for an individual corporation  
7 pursuant to subdivision (b) of Section 63089.56, so that the  
8 financing needs of small business may be met as fully as possible  
9 within the limits of corporations' trust fund account balance.

10     (b) Any corporation that serves an area declared to be in a state  
11 of emergency by the Governor or a disaster area by the President  
12 of the United States, the Administrator of the United States Small  
13 Business Administration, or the United States Secretary of  
14 Agriculture shall increase the portfolio of loan guarantees where  
15 the dollar amount of the loan is less than one hundred thousand  
16 dollars (\$100,000), so that at least 15 percent of the dollar value  
17 of loans guaranteed by the corporation is for those loans. The  
18 corporation shall comply with this requirement within one year of  
19 the date the emergency or disaster is declared. Upon application  
20 of a corporation, the executive director may waive or modify the  
21 rule for the corporation if the corporation demonstrates that it made  
22 a good faith effort to comply and failed to locate lending  
23 institutions in the region that the corporation serves that are willing  
24 to make guaranteed loans in that amount.

25     ~~SEC. 8.~~

26     *SEC. 9.* Section 63089.62 of the Government Code, as added  
27 by Section 4 of Chapter 537 of the Statutes of 2013, is repealed.